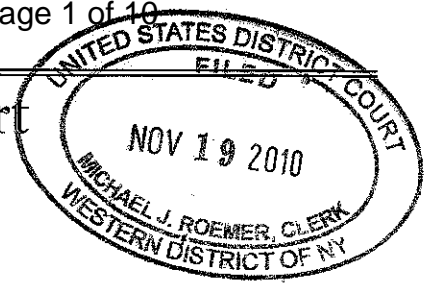


United States District Court  
for the  
Western District of New York



United States of America

v.

TERRY ZIMMERMAN

*Defendant*

Case No. 10-MJ-677

**CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

Between on or about the date of September 11, 2010 and October 28, 2010 in the county of Monroe in the Western District of New York, the defendant violated 18 U.S.C. § 1030(a)(4), an offense described as follows:

the defendant has violated 18 U.S.C. § 1030(a)(4), which prohibits a person from knowingly and with the intent to defraud, accessing a protected computer without authorization, or exceeding authorized access, and by means of such conduct furthers the intended fraud and obtains anything of value greater than \$5,000 in any 1-year period.

This criminal complaint is based on these facts:

X Continued on the attached sheet.

Please see attached affidavit.

*Complainant's signature*

Barry Couch, S/A FBI

*Printed name and title*

Sworn to before me and signed in my presence.

Date: 11/19/2010

*Judge's signature*

City and State: Rochester, New York

Hon. Jonathan W. Feldman, U.S. Magistrate Judge

*Printed name and title*

10 MJ 677

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

STATE OF NEW YORK )  
COUNTY OF MONROE )  
CITY OF ROCHESTER )

I, Barry W. Couch, being duly sworn, hereby depose and state the following:

1. I am a Special Agent of the Federal Bureau of Investigation ("FBI") and have been so employed since July 2008. I have been assigned to the FBI's Rochester office, specifically to Squad 10 which investigates general criminal matters.

2. I am currently assigned to investigations involving computer intrusions, as well as other criminal investigations. As part of my duties as a FBI Special Agent, I investigate criminal violations relating to fraud and related activity in connection with computers in violation of Title 18, United States Code, Section 1030.

3. This affidavit is submitted for the limited purpose of establishing probable cause to believe that TERRY ZIMMERMAN, born December 22, 1990, knowingly and with the intent to defraud, accessed a protected computer without authorization, or exceeding authorized access, and by means of such conduct furthered the intended fraud and obtained anything of value greater than \$5,000 in any 1-year

period, in violation of Title 18, United States Code, Section 1030(a)(4).

4. The statements contained in this affidavit are based on my own personal knowledge and observation, my training and experience, and conversations with other law enforcement officers and witnesses. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause that TERRY ZIMMERMAN did knowingly violate Title 18, United States Code, Section 1030(a)(4).

5. According to Loretta Chrzan-Williams, Director of Student Accounts, Monroe Community College (MCC), on October 20, 2010, MCC student, Randy Ross, notified the Student Accounts Department that someone had breached his MCC Banner account (MCC's official student information database) and enrolled him in "eRefund." Upon receiving that report, MCC discovered that an eRefund of \$2,156.86, intended for Randy Ross, had been sent to a bank account, which did not belong to Ross.

6. On October 21, 2010, MCC discovered that another MCC student, Nicole Larosa, had not received an eRefund as anticipated. Upon further investigation by MCC, it was found that someone had changed Larosa's banking information in her MCC Banner account without her knowledge. It was determined that this refund was sent to another bank account which did not belong to Larosa in the amount of \$964.90.

7. On October 21, 2010, Jennifer Caruso, MCC Student Accounts Office Representative, researched both Ross's and Larosa's MCC Banner accounts and discovered that the Email address used as the contact for the eRefund in each instance was the same:

"zzmblood@hotmail.com." A query of the student information database revealed that zzmblood@hotmail.com was being used as an alternate e-mail address for a student currently registered at MCC by the name of TERRY ZIMMERMAN.

8. MCC records indicate that TERRY ZIMMERMAN resides at 28 Judson Terrace, Rochester, N.Y. ZIMMERMAN is employed at MCC as a Student Employee at MCC's Electronic Resource Center, Damon Campus, 228 East Main Street, Rochester, NY. As part of Zimmerman's duties, he assists other MCC students with logging into their MCC computer accounts. However, ZIMMERMAN does not have authority to gain access

into the MCC eRefund system for the accounts of other students. A representative of the MCC Network Services confirmed to your affiant that the MCC computer system is used in and affects interstate commerce and communication primarily through the Internet.

9. On October 21, 2010, MCC Controller, Mike Quinn, contacted MCC's eRefund vendor, Nelnet Business Solutions, and requested a detailed report on any and all accounts that currently listed or were using the Email address of TERRY ZIMMERMAN, zzmblood@hotmail.com.

10. On October 22, 2010, Nelnet provided MCC with a list of twelve MCC student accounts, which all used the IP address of 69.205.70.230 to log into the MCC computer system on various occasions over the last month. MCC discovered that eleven of the accounts contained the zzmblood@hotmail.com Email address, including the MCC students Ross and Larosa. For each of the MCC student accounts referenced in the Nelnet report, a bank routing number was identified for the particular bank into which the eRefunds, noted in Paragraphs 5, 6, 11, 12, and 14 of this affidavit, were deposited.

11. On October 22, 2010, MCC student, Younis Ofuku, notified MCC that she did not receive a refund as anticipated. Ofuku

explained that she had discovered that an eRefund account had been set up without her knowledge. It was further discovered that an eRefund of \$2,376.61, related to the Ofuku eRefund account, had been sent to a bank account that had not been opened by Ms. Ofuku.

12. On October 25, 2010, MCC student, Hazel Henderson, notified MCC that she had not received an expected refund to her eRefund account. Henderson was found to be on the list of the twelve accounts identified by Nelnet. Upon researching this eRefund, it was discovered that a refund amount of \$4,732.62, related to the Henderson eRefund account, was sent to a bank account that Henderson had not opened. That same day, the Monroe County District Attorney's Office served a subpoena upon Time Warner to identify the subscriber who used the IP address 69.205.70.230 on October 6, 2010, at 4:15PM CST, the date and time Hazel Henderson's account was accessed. On October 27, 2010, Time Warner identified the subscriber as:

Sebonya Holland

28 Judson Terrace

Rochester, New York 14611

585-333-XXXX

User Name: SHOLLAND3@rochester.rr.com

13. On October 25, 2010, it was discovered through the Nelnet and MCC computer databases that MCC student Sebonya Holland made an on-line transaction on September 23, 2010, requesting her MCC transcripts. This transaction was made utilizing IP address 69.205.70.230, the IP address previously identified in Paragraph 10 herein. A review of Holland's student records showed her home address as being 28 Judson Terrace, Rochester, New York, the residence address for TERRY ZIMMERMAN.

14. On October 25, 2010, MCC student, Scott Diroma, notified MCC that he had not received an expected refund to his eRefund account. Diroma was found to be on the list of twelve accounts identified by Nelnet. Research showed that two refunds totaling \$1,914.56, related to the Diroma eRefund account, were sent to a bank account that Diroma had not opened.

15. Pursuant to the bank information provided in the Nelnet report, on October 27, 2010, the Monroe County District Attorney's Office served a subpoena on Metabank requesting information for debit card account numbers that were associated with several of the twelve MCC student accounts referred to in Paragraph 10 of this affidavit. On October 28, 2010, Metabank advised that several of the debit cards had been mailed to 28 Judson Terrace, Rochester, New York.

16. On October 28, 2010, a federal search warrant issued by United States Magistrate Judge Marian W. Payson was executed at 28 Judson Terrace, Rochester, New York. TERRY ZIMMERMAN was present at 28 Judson Terrace when the execution of the search warrant was initiated. During the execution of the search warrant, a composition book was seized. Contained within that composition book were what appeared to be names, social security numbers and dates of birth. Among them were the names, dates of birth, and social security numbers of the MCC students previously noted in this affidavit, that is: Hazel Henderson, Scott Diroma, Nicole Larosa, Randy Ross, and Younis Ofuku.

17. On November 2, 2010, SA Couch through Accurint.com (a law enforcement only public records database) checked the names, social security numbers and dates of birth listed in the composition book, that is: Hazel Henderson, Scott Diroma, Nicole Larosa, Randy Ross and Younis Ofuku. Accurint confirmed that the names, dates of birth and Social Security numbers in the composition book for the students Hazel Henderson, Randy Ross and Younis Ofuku were accurate. For the students Scott Diroma and Nicole Larosa, Accurint confirmed that the names and Social Security numbers matched.



18. On November 2, 2010, SA Couch reviewed information provided by Nelnet. The information showed that: on September 11, 2010, Hazel Henderson's MCC account was accessed by IP address 69.205.70.230, and was altered on September 14, 2010; that Scott Diroma's MCC account was accessed by IP address 69.205.70.230, and was altered; that on September 14, 2010, Nicole Larosa's MCC account was accessed by IP address 69.205.70.230, and was altered; and that on September 26, 2010, Randy Ross's MCC account was accessed by IP address 69.205.70.230, and was altered.

19. During the execution of the search warrant referenced in Paragraph 16 of this affidavit, a photocopy of what appears to be a Social Security Card for Younis Ofuku, was seized, as well as, paperwork that lists Nicole Larosa and Younis Ofuku, living at 28 Judson Terrace, Rochester, New York 14611, and indicating that they are recipients of prepaid debit or credit cards.

20. On October 28, 2010, TERRY ZIMMERMAN was interviewed by Brighton PD Investigator Kevin Dennis. ZIMMERMAN, in sum and substance, indicated that he stole refunds related to MCC students in order to get money to help find a cure for HIV and because he owed money to others.

Based upon the foregoing, your affiant respectfully submits that there is probable cause to believe that TERRY ZIMMERMAN has violated 18 U.S.C. § 1030(a)(4), which prohibits a person from knowingly and with the intent to defraud, accessing a protected computer without authorization, or exceeding authorized access, and by means of such conduct furthers the intended fraud and obtains anything of value greater than \$5,000 in any 1-year period.



BARRY W. COUCH  
Special Agent  
Federal Bureau of Investigation

Sworn to and subscribed  
before me this 19 day of  
November 2010.



HONORABLE JONATHAN W. FELDMAN  
UNITED STATES MAGISTRATE JUDGE